FINANCIAL SERVICES/Cloture (Motion to Proceed)

SUBJECT: Financial Services Act of 1998 . . . H.R. 10. Lott motion to close debate on the motion to proceed.

ACTION: CLOTURE ON THE MOTION TO PROCEED AGREED TO, 93-0

SYNOPSIS: As reported, H.R. 10, the Financial Services Act of 1998, will eliminate barriers that prevent banks, insurance companies, and securities firms from affiliating. Affiliations will be through a new type of bank holding company called a "financial holding company." Banks will not be allowed to engage in any of the new activities permitted by this bill unless they have at least a satisfactory Community Reinvestment Act (CRA) rating. The creation of Wholesale Financial Institutions (WFIs) will be authorized. WFIs will not have deposit insurance or be affiliated with institutions with deposit insurance, and they generally will not be allowed to accept deposits of less than $100,000. WFIs will be subject to the CRA. The bill will make several other expansions of the CRA. As a general matter, activities will be regulated by function--securities activities will be handled by the Securities and Exchange Commission under Federal securities laws; insurance activities will be regulated under State insurance laws; banking activities will be handled by Federal banking regulators. The Federal Reserve will have jurisdiction over the umbrella holding companies. State regulation of national bank insurance activities will be protected if it does not have a disparate impact on the ability of a bank to sell insurance or if it involves any of 13 listed "safe harbor" activities. Companies engaged in commercial activities will not be allowed to acquire or take control of thrifts after September 3, 1998.

On October 1, 1998, Senator Lott sent to the desk, for himself and others, a motion to close debate on the motion to proceed.

NOTE: A three-fifths majority (60) vote is required to invoke cloture.

Those favoring the motion to invoke cloture contended:

The legal framework for the financial services industry in the United States is antiquated. Most of that framework has persisted without alteration since the 1930s. The system basically is set up to keep banking, insurance, and securities activities strictly

(See other side)

YEAS (93)

Republican (53 or 100%)

Abraham, Allard, Ashcroft, Bennett, Bond, Brownback, Burns, Campbell, Chafee, Coats, Cochran, Collins, Coverdell, Craig, D'Amato, DeWine, Domenici, Enzi, Faircloth, Frist, Gorton, Gramm, Grams, Grassley, Gregg, Hagel, Helms, Hutchinson, Hutchison, Inhofe, Jeffords, Kempthorne, Kyl, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Roberts, Roth, Sessions, Shelby, Smith, Bob, Smith, Gordon, Snowe, Specter, Stevens, Thomas, Thompson, Thurmond, Warner

Democrats (40 or 100%)

Akaka, Baucus, Biden, Bingaman, Breaux, Bryan, Bumpers, Byrd, Cleland, Conrad, Daschle, Dodd, Dorgan, Feingold, Feinstein, Ford, Graham, Harkin, Inouye, Johnson, Kennedy, Kerrey, Kerry, Kohl, Landrieu, Lautenberg, Leahy, Levin, Lieberman, Mikulski, Moseley-Braun, Murray, Reed, Reid, Robb, Rockefeller, Sarbanes, Torricelli, Wellstone, Wyden

NAYS (0)

Republicans (0 or 0%)

Democrats (0 or 0%)

NOT VOTING (7)

Republicans (2)

Hatch-[2], Santorum-[2]

Democrats (5)

Boxer-[2], Durbin-[2], Glenn-[2], Hollings-[2], Moynihan-[2AY]

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

separated. The initial purpose of requiring that separation was to prevent banks from "gambling" on risky ventures with insured deposits. Now, though, having that separation actually puts insured deposits at greater risk. The globalization of financial services, developments in technology, and changes in capital markets have all created significant benefits for allowing banks to engage in both insurance and securities activities. Passing this bill will allow financial institutions to diversify their products and will give them incentives to develop new and more efficient products and services. All of the prudential safeguards to protect federally insured deposits will be retained, and it will be less likely that there will ever be any need to pay any claims on those insured deposits because the banks will have greater financial health due to their new financial options.

Members are in very broad agreement on the value of this bill. The main point of contention is that some Senators object to the CRA provisions. Senators very recently debated the CRA issue when they considered the Credit Union Reform Bill (see vote Nos. 236 and 238). We understand that there are very strong views on both sides of that issue, and both sides have made very valid points. On the one hand, defenders of the CRA point out that community lending requirements have proven profitable for banks; rather than cost them money, those requirements have just opened up new markets that were being overlooked. On the other hand, those Senators who oppose the CRA are quite correct that some professional protestors have been able to use the CRA to extort money out of banks for themselves by alleging, falsely, that those banks have not been meeting CRA requirements.

The effort to pass a financial services reform bill has been ongoing for nearly 25 years. Those efforts have been very difficult because of the complexity of the issue and because the banking, insurance, and securities sectors have so much at risk as well as so much to gain. For most of the years we have been working on this issue it has been impossible to get the House to act. This year is different. The House has passed the bill, and the Administration is supportive of it. In the Senate, there is broad, bipartisan support for this particular reform bill as well, but we are running up against the adjournment clock for the 105th Congress. A determined minority of Senators, who do not have enough votes to stop cloture, are causing delays in the consideration of this bill because they oppose the CRA provisions. If they demand cloture votes at every possible step, and demand that all the p

noncompliance; will allow a bank to be fined up to $1 million per day for CRA noncompliance; will allow cease and desist orders to be issued for CRA noncompliance; will allow restrictions to be placed on any insurance activity for CRA noncompliance; will allow restrictions on any securities activity for CRA noncompliance; will allow restrictions to be placed on any activity of a holding company for CRA noncompliance by the holding company; will allow restrictions to be placed on any activity of a holding company for CRA noncompliance by just one bank that is in the holding company; will allow CRA sanctions affecting insurance sales; and will apply the CRA to wholesale financial institutions, which are a new type of institution that will be created by this bill that will not take insured deposits and that will not accept deposits of less than $100,000. These provisions are so extreme that if this bill passes bank boards and officers might just as well resign and turn over their banks to the protest groups. An extortion threat is a lot more effective if it carries the threat of $1 million-per-day fines for the individuals who are threatened.

The CRA should be repealed outright, but we have instead offered a compromise. We will allow this bill to pass if our colleagues will agree to two demands. First, they must agree to a simple, well-defined, anti-extortion, anti-kickback provision that will focus the CRA on lending instead of cash payments, quotas, set-asides, or promises of a percentage of a bank's profits for a number of years. If the purpose is really community lending, our colleagues should readily agree to that demand. Second, we want banks to be regularly examined for CRA compliance, and if a bank is in compliance on its last regular CRA examination then no CRA challenge will be allowed to any request by it to expand its services. These two simple, compromise changes should stop most of the abuses. If our colleagues agree to them, the community lending mandates that they support will be retained, and they will still be expanded, but the professional extortionists whom we oppose will be stopped. This compromise is fair. We will kill this bill with delays if our colleagues do not accept this compromise or come up with an equally fair solution.

No arguments were expressed in opposition to the motion.